

**THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

JOHN BARNHARDT, ET AL.

PLAINTIFFS

and

UNITED STATES OF AMERICA

PLAINTIFF-INTERVENOR

v.

CIVIL ACTION NO. 4:65-cv-1300-HTW-LGI

**MERIDIAN MUNICIPAL SEPARATE
SCHOOL DISTRICT, ET AL.**

DEFENDANTS

MOTION TO MODIFY DESEGREGATION PLAN AND FOR EXPEDITED CONSIDERATION

Pending before the Court is the Joint Motion for Preliminary Approval of Settlement Agreement and Authorization of Notice to the Plaintiff Class Pursuant to Rule 23(E) of the Federal Rules of Civil Procedure, filed on August 9, 2019. [158]. Had the Court ruled on the pending motion, this Motion to Modify Desegregation Plan would be unnecessary. The District has found it necessary to take immediate measures with respect to its middle schools. As detailed more below, the District has been serving three middle schools with under 1,000 students total. For educational and financial reasons, the Board of Education voted on May 26, 2022 to close Carver Middle School.

Carver Middle School had the lowest enrollment of the District's three middle schools for the 2021-2022 school year. Additionally, Carver was projected to have vacancies in twelve of its twenty-five certified staff positions for the 2022-2023 school year. The District has moved forward with reassigning Carver's students to Magnolia Middle School and Northwest Middle School. New middle school zones lines have been prepared, and former Carver students have

been advised of their new school assignments. Former Carver students participating in athletics are now practicing with teams at their new schools.

The District submits this motion asking the Court to enter an Order modifying the existing desegregation plan to approve the reconfigured student attendance zones for students in grades six through eight to attend Magnolia Middle School and Northwest Middle School as shown on the map attached as Exhibit 1 to this motion following the closure of Carver Middle School.¹

The District presents the following in support of its motion:

1. On May 10, 1965 private plaintiffs, then-minor students, by their parents, initiated this lawsuit against the District, seeking disestablishment of its racially dual school system. Shortly after, on June 28, 1965, this Court granted the United States leave to intervene as a plaintiff.

2. On November 7, 1969, the Court of Appeals for the Fifth Circuit issued an Order (“November 7, 1969 Order”) enjoining the District from operating a dual school system based on race or color and requiring the District to operate a unitary school system wherein no person is effectively excluded from any school because of race or color. The Fifth Circuit ordered the immediate implementation of a desegregation plan (the “Plan”) prepared by the United States Department of Health, Education, and Welfare. The November 7, 1969 Order allowed

¹ Although Carver Middle School will no longer house students, the District is making plans to repurpose the building for professional development training. The building may also be used to temporarily house students due to renovations in other buildings. The District plans to eventually relocate its Central Office personnel to Carver.

modifications to the Plan after consideration by United States District Court Judge Dan M. Russell, Jr., subject to further order by the Fifth Circuit Court of Appeals.

3. By Order of November 19, 1969 (“November 19, 1969 Order”), the Fifth Circuit approved an amendment to the Plan, redrawing attendance zones for seventh, eighth, and ninth grade students to attend four schools: Carver Junior High School, Magnolia Junior High School, Kate Griffin Junior High School, and Northwest Junior High School.

4. On July 14, 1970, Judge Russell issued findings of fact and recommendations for additional amendments to the Plan’s geographical attendance zones for assignment of students in grades one through six to ten elementary schools. On July 20, 1970, the Fifth Circuit approved these amendments to the Plan according to Judge Russell’s recommendation.

5. On February 7, 1973, the Fifth Circuit transferred the case to the District Court.

6. On June 19, 2009, this Court entered an order allowing the District to close Kate Griffin Junior High and reassign all sixth through eighth-grade students to Carver Middle School, Magnolia Middle School, or Northwest Middle School based on new attendance zone lines.

7. At present, Carver Middle School, Magnolia Middle School, and Northwest Middle School each serve a separate attendance zone for students in grades six through eight.

8. On May 26, 2022, the District’s Board of Education unanimously voted to close Carver Middle School. During the 2021-2022 school year, the District’s three middle schools served under 1,000 students total. The Board found it was educationally sound and made economic and practical sense to close one middle school and to re-draw attendance zones for the remaining two middle schools. Teacher recruitment at Carver has been particularly challenging for the District, despite the District’s creative approach to addressing staffing at all

schools by implementing programs such as Grow Your Own, signing bonuses, smaller classroom sizes, and support for non-certified teachers. For the 2021-2022 school year, Carver Middle School had vacancies in five of its certified staff positions. For the 2022-23 school year, Carver is projected to have vacancies in twelve of its twenty-five certified staff positions despite the efforts of the current administration to recruit qualified teachers. By closing Carver and reassigning its students to Magnolia and Northwest, all middle school students will attend schools that are fully staffed so that no middle school student will start the year with a long-term substitute.

9. With the assistance of its routing software company, the District has reconfigured student attendance zones for the remaining middle schools: Magnolia and Northwest. Each of these schools will serve students in sixth, seventh, and eighth grades. A map of the new student attendance zones is attached as Exhibit 1 to this motion.

10. The Meridian Public School District is currently 91.6% black, 4.1% white, and 4.3% other. The proposed closure of Carver Middle School and assignment of the District's sixth through eighth-grade students to Magnolia Middle School and Northwest Middle School will not hinder desegregation nor serve to perpetuate or re-establish the dual school system. The chart below demonstrates that the new configuration allows the remaining middle schools to accommodate former Carver students without affecting, to any great extent, the student racial enrollment in those schools.

For the 2021-2022 school year, enrollment at the District's middle schools was:

SCHOOL	BLACK	WHITE	OTHER	TOTAL
Carver Middle	262 (95.6%)	5 (1.8%)	7 (2.6%)	274
Magnolia Middle	259 (88.7%)	13 (4.5%)	20 (6.8%)	292
Northwest Middle	398 (92.6%)	14 (3.2%)	18 (4.2%)	430

For the 2022-2023 school year, projected middle school enrollment is:

SCHOOL	BLACK	WHITE	OTHER	TOTAL
Magnolia Middle	437 (93.2%)	8 (1.7%)	24 (5.1%)	469
Northwest Middle	529 (92.2%)	25 (4.3%)	20 (3.5%)	574

14. The District's decision to close Carver Middle School is not prohibited by law:

"[S]chools may be closed for non-racial reasons." *Mims v. Duval County Sch. Bd.*, 447 F.2d

1330, 1331 (5th Cir. 1971). As explained above, the District decided to close Carver Middle School for economic and instructional reasons, which are entirely unrelated to race.

Additionally, the District has fulfilled its responsibility to "see to it that future school construction and abandonment are not used and do not serve to perpetuate or re-establish the dual system" by analyzing the impact of the closures on the racial composition of each school.

Swann v. Charlotte Mecklenburg Bd. of Educ., 402 U.S. 1, 21 (1971).

15. The District respectfully requests that this Motion be heard expeditiously and be brought before the Court as soon as practicable.

Because this motion is simple and straightforward, the District requests the requirement for an accompanying memorandum be waived.

WHEREFORE, PREMISES CONSIDERED, the Meridian Public School District respectfully requests that the Court enter an Order allowing the District to modify its desegregation Plan to approve the reconfigured student attendance zones for students in grades six through eight to attend Magnolia Middle School and Northwest Middle School as shown on the map attached as Exhibit 1 to this motion following the closure of Carver Middle School.

Respectfully submitted this the 22nd day of July, 2022.

**MERIDIAN PUBLIC
SCHOOL DISTRICT**

/s/ John S. Hooks

John S. Hooks

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CERTIFICATE OF SERVICE

I, John Hooks, certify that I have this day caused a true and correct copy of the above document to be filed with the Clerk of Court via the CM/ECF System, which caused notice of filing to be served on all counsel of record.

Dated: July 22, 2022

/s/ John S. Hooks

John S. Hooks